

## **REMARKS**

### **Status of the Claims and Specification**

Claims 1-25 are currently pending in the application. By this Amendment, the specification and claims 1-3, 6-8, 11, 12 and 16-22 are amended. Claim 5 is cancelled and claim 25 is newly added. No new matter is added. Support for the fixing means recited in claim 25 can be found, for example, in the specification at page 8, lines 12-15.

### **Initial Matters**

It appears that claims 23 and 24 were not addressed by the Office Action. Claims 23 and 24 were part of the originally filed application. *See* originally filed application at page 18. Applicants respectfully request consideration of the claims on the merits and clarification of the status of the non-addressed claims. Also, after examining the US Patent Application Publication for this application (US2006/0239801), it appears the Figure 6 on drawing sheet 5 was not included. Applicants wish to ensure that the Examiner is aware of this figure and respectfully request acknowledgement, in the next office action, of the inclusion of this figure in the application.

### **Drawing Objections**

The Office Action has objected to the drawings as allegedly not showing the transport and feeding systems being able to take storing units out of the rack shelves. Applicants respectfully traverse the drawing objection. Applicants submit that this feature is sufficiently illustrated in the drawings. The drawings schematically illustrate with arrows the transport and feeding systems taking storing units out of the rack shelves. This feature, *per se*, is well known in the art. For example, US Patent 3,978,995 to Zollinger et al., cited and applied in this Office Action, discloses this feature. Similar to the present application, the Zollinger et al. patent does not show the transport and feeding systems taking storing units out of the rack. Rather, that action is described in the specification and shown via arrows indicating such movement. *See* col. 4, lines 20-25 which discloses, “arrows ... indicate the direction of movement of the loads into and out of storage ...” *See also* Fig. 3. Applicants have represented such movement in a similar

manner. *See e.g.* Applicants' Fig. 4. Therefore, the Applicants respectfully request withdrawal of the drawing objection.

**Specification Objections**

The Office Action has objected to the specification because the specification lacked headings for the appropriate sections. Applicants have amended the specification to include such headings.

**Rejections under 35 U.S.C. § 112 First Paragraph**

The Office Action rejects claims 1 and 3 as allegedly failing to comply with the enablement requirement. *See* the Office Action at page 3. The Office Action alleges the original specification does not support the recitation of the transport and feeding systems being able to actively "take storing units out of the rack shelves ..." *Id.* Applicants respectfully traverse this rejection. The original specification clearly enables the recitation of both the transport and feeding systems being able to actively take storing units out of the rack shelves so that one of ordinary skill in the art could make and practice the claimed invention. For example, at page 7, lines 8-15, the specification discloses telescoping forks as a DTS's horizontal transport means for transporting or removing a storage unit from a rack. Further, at page 8, lines 1-6, the specification discloses telescoping forks as the load receiving means' horizontal transport means for transporting or removing a storage unit from a rack. Therefore, the Applicants respectfully request reconsideration and withdrawal of the rejection.

**Rejections under 35 U.S.C. § 112 Second Paragraph**

The Office Action rejects claim 1 alleging the "providing station", the "at least one driving track" and the "at least one commissioning shelf" lack positive identification. The Office Action continues that it is not distinct whether these features are actually part of the claimed combination." Applicants have earnestly amended the claim language in an effort to address these issues. Applicants have amended the claim to positively recite the providing station, driving track and commissioning shelf. Similar rejections apply to the "at least one first area" and "a second area" in claim 3. Applicants have amended the

claim to positively recite a first area and a second area.

In regard to the rejection of claim 10, Applicants respectfully submit that the specification at page 7, line 25, discloses “connecting means” for connecting the load receiving means to the traversing means. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection.

The Office Action rejects claims 16-22 alleging, “it is not distinct whether the providing station is, in fact,”: an intermediate buffer, store, commissioning place, or a supply and removal area of a manufacturing spot. Applicants have earnestly amended the claim language in an effort to address these issues.

**Rejections under 35 U.S.C. § 103**

**A. Woodson**

The Office Action has rejected claims 1-22 for alleged obviousness over US Patent No. 6,129,497 to Woodson, III *et al.* (*hereinafter* “Woodson”). *See* the Office Action at page 6. Applicants respectfully traverse this rejection.

Woodson discloses a storage and retrieval machine (SRM). The machine has a rack entry vehicle (3) which is connected to the SRM. The rack entry vehicle rides in a carriage of the SRM while the SRM moves along the length of rack. The rack entry vehicle passes from the carriage into the rack and back to the carriage to retrieve the goods. Even if the rack entry vehicle is construed to be the feeding system and the SRM is the construed to be the floor-bound transport system, Woodson would still not teach or suggest the claimed invention.

First, as amended, claim 1 recites “a feeding system ... arranged above ...said floor-bound transport system ...” In contrast to the recited claim language, Woodson’s rack entry vehicle is not arranged above the SRM. Instead, this rack entry vehicle is below the top of the SRM. This arrangement is necessary in Woodson because the rack entry vehicle must fit within the carriage of the SRM. Therefore, Woodson’s rack entry vehicle cannot be above the SRM.

Also, as amended, claim 1 recites, “wherein said feeding system is movable above, but along, a portion of a path that the at least one vehicle moves, while being independently movable of the floor-bound transport system during said movement ...”

In contrast to the recited claim language, Woodson's rack entry vehicle is not movable along a portion of the SRM's path while being independently movable of the SRM during that time. Instead, the only time the rack entry vehicle moves along the SRM's path is when it is actually in the carriage of the SRM. Therefore, the movement of the rack entry vehicle is clearly not independent of the SRM when the rack entry vehicle is moving along the SRM's path.

As amended, claim 3 recites similar language and similar arguments apply.

For at least the above reasons, Woodson does not disclose or suggest the above recitations. Therefore, Applicants respectfully submit, each independent claim 1 and 3 patentably defines over Woodson. Reconsideration and withdrawal of the rejection are respectfully requested.

**B. Zollinger**

The Office Action has rejected claims 1-22 for alleged obviousness over US Patent No. 3,978,995 to Zollinger (*hereinafter* "Zollinger"). See the Office Action at page 6. Applicants respectfully traverse this rejection.

Zollinger discloses mobile tier picking apparatus for a warehousing system which includes a mobile vertical lift 100 and mobile vertical transfer vehicles 200. The Office has construed mobile transfer vehicles 200 as the floor-bound system. See the Office Action at page 7. However, mobile transfer vehicles are not floor-bound and clearly do not run solely along the floor. Zollinger discloses the mobile transfer vehicles move to different vertical levels of the rack. See *e.g.* Fig. 2 where a mobile transfer vehicle (the one within the mobile vertical lift) is on the second level of the rack. Therefore, the mobile transfer vehicles do not meet the recitation of a floor-bound transport system with at least one vehicle that runs solely along the floor.

Further, even if Zollinger's vertical movable lift were to be construed as the floor-bound transport system and Zollinger's mobile transfer vehicles were construed as the feeding system, Zollinger would still not recite the above features for at least two reasons.

First, the claim language recites "a feeding system ... arranged above ...said floor-bound transport system ...". In contrast to the recited claim language, the mobile transfer vehicles are not arranged above the movable vertical lift. Instead, the mobile

transfer vehicles are below the top of the movable vertical lift. This arrangement is necessary in Zollinger because the rack entry vehicle must fit within the vertically movable lift platform 150 of the movable vertical lift. *See e.g.* Fig. 2 which shows the mobile transfer vehicles within the movable vertical lift. Therefore, the mobile transfer vehicles cannot be above the movable vertical lift.

Second, the claim language recites, “wherein said feeding system is movable above, but along, a portion of a path that the at least one vehicle moves, while being independently movable of the floor-bound transport system during said movement ...” In contrast to the recited claim language, the mobile transfer vehicles 200 are not independently movable along a portion of the path the movable vertical lift 100 moves, while being independently movable of the movable vertical lift 100 during that time. Instead, the only time the mobile transfer vehicles 200 move along the same path as the movable vertical lift 100 is when the mobile transfer vehicles are carried within the movable vertical lift. *See e.g.* Fig. 2 which discloses mobile transfer vehicle within the movable vertical lift. Such movement is clearly not independent of the movable vertical lift.

As amended, claim 3 recites similar language and similar arguments apply.

For at least the above reasons, Zollinger does not disclose or suggest the above recitations. Therefore, Applicants respectfully submit that each of independent claim 1, 3 and 25 patentably defines over Zollinger. Reconsideration and withdrawal of the rejection are respectfully requested.

### **New Claim 25**

Applicants have added new claim 25. It is respectfully submitted that claim 25 also patentably defines over Woodson and Zollinger. Neither Woodson nor Zollinger, taken alone or in combination, disclose or suggest the recited features of claim 25.

**Conclusion**

All rejections having been addressed, Applicant respectfully submits that this application is in condition for allowance and respectfully solicits prompt notification of the same. If the Examiner believes that a telephone conference or a personal interview will be useful to advance the prosecution of this application and/or place the application in condition for allowance, he is invited to contact the undersigned attorney by telephone.

Respectfully submitted,  
BANNER & WITCOFF, LTD.

By: /Matthew Kohner/ #51,892 for

Robert Katz  
Registration No. 36,402

BANNER & WITCOFF, LTD.  
Eleventh Floor  
1100 13th Street, N.W.  
Washington, D.C. 20005-4051  
(202) 824-3000 (Telephone)  
(202) 824-3001 (Facsimile)

Dated: July 16, 2007